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BEFORE THE ARIZONA CORPORATION COMMISSION
DOCKETED

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

JAN 11 2001

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
MICHAEL A. CASTILLO FOR A CERTIFICATE
OF CONVENIENCE AND NECESSITY TO
PROVIDE CUSTOMER-OWNED PAY
TELEPHONE SERVICE IN THE STATE OF
ARIZONA

DOCKET NO. T-03929A-00-0695

DECISION NO. 63295**ORDER**

Open Meeting
January 9 and 10, 2001
Phoenix, Arizona

BY THE COMMISSION:

On August 29, 2000, the Arizona Court of Appeals, Division One ("Court") issued its Opinion in Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV, Section 14 of the Arizona Constitution requires the Arizona Corporation Commission ("Commission") to "determine fair value rate base for all public service corporations in Arizona prior to setting their rates and charges." Although the Commission has filed a Petition for Review to the Arizona Supreme Court, we are concerned that the Opinion might create uncertainty in the competitive telecommunications industry during the review period.

On September 12, 2000, the Commission ordered the Hearing Division to open a new generic docket to obtain comments on procedures to insure compliance with the Constitution should the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. The Commission also expressed concerns that the cost and complexity of fair value rate base ("FVRB") determinations must not offend the Telecommunications Act of 1996.

Based on the above, we will approve the application of Michael A. Castillo ("Applicant") at this time with the understanding that it may subsequently have to be amended to comply with the law after the exhaustion of all appeals.

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

1 **FINDINGS OF FACT**

2 1. On September 13, 2000, Michael A. Castillo ("Applicant") filed with the Commission
3 an application for a Certificate of Convenience and Necessity ("Certificate") to provide customer-
4 owned pay telephone ("COPT") service in the State of Arizona.

5 2. In Decision No. 55817 (December 10, 1987), the Commission found that COPT
6 providers were public service corporations subject to the jurisdiction of the Commission.

7 3. In Decision No. 57797 (April 8, 1992), the Commission adopted A.A.C. R14-2-901
8 through R14-2-909 to regulate COPT providers.

9 4. Decision No. 58535 (February 14, 1994) adopted a Generic Tariff that establishes
10 rates and minimum service standards applicable to COPT service.

11 5. Pursuant to A.R.S. § 40-282, the Commission may issue Decisions regarding COPT
12 Certificates without a hearing.

13 6. Applicant has requested that a Certificate be granted and has indicated that it will
14 provide COPT service pursuant to the rates, terms and conditions specified in the Generic COPT
15 Tariff.

16 7. Applicant does not presently provide COPT services in Arizona.

17 8. On September 22, 2000, the Commission's Utilities Division Staff ("Staff") filed a
18 Staff Report, recommending approval of the application without a hearing.

19 9. Staff stated that the Applicant has not provided a copy of its customer information
20 placard in compliance with the Generic Tariff and recommends that the Applicant be ordered to file
21 its customer information placard with Staff for approval within 30 days.

22 10. Staff also stated that increased pay telephone availability is in the public interest.

23 **CONCLUSIONS OF LAW**

24 1. Applicant is a public service corporation within the meaning of Article XV of the
25 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

26 2. The Commission has jurisdiction over Applicant and the subject matter of the
27 application.

28 3. The provision of COPT service in Arizona by Applicant is in the public interest.

1 4. Applicant is a fit and proper entity to receive a Certificate for providing COPT service
2 in Arizona.

3 5. Staff's recommendations in Findings of Fact No. 8 and 9 are reasonable and should be
4 adopted.

5 **ORDER**

6 IT IS THEREFORE ORDERED that the Application of Michael A. Castillo for a Certificate
7 of Convenience and Necessity for authority to provide customer-owned pay telephone service in
8 Arizona shall be, and the same is, hereby granted, conditioned upon Michael A. Castillo filing a
9 customer information placard approved by the Director of the Utilities Division for compliance with
10 the requirements of the Generic COPT Tariff within 30 days of the effective date of this Decision.

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1 IT IS FURTHER ORDERED that the Application of Michael A. Castillo for a Certificate of
2 Convenience and Necessity for authority to provide customer-owned pay telephone service in
3 Arizona shall be granted subject to the condition that Michael A. Castillo shall file the following
4 FVRB information within 18 months of the date that it first provides service. The FVRB shall
5 include a dollar amount representing the total revenue for the first twelve months of
6 telecommunications service provided to Arizona customers by Michael A. Castillo following
7 certification. Michael A. Castillo shall also file FVRB information detailing the total actual operating
8 expenses for the first twelve months of telecommunications service provided to Arizona customers by
9 Michael A. Castillo following certification. Michael A. Castillo shall also file FVRB information
10 which includes a description and value of all assets, including plant, equipment, and office supplies,
11 to be used to provide telecommunications service to Arizona customers for the first twelve months
12 following Michael A. Castillo's certification.

13 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

14 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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16 
17 CHAIRMAN
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19 COMMISSIONER
20 
21 COMMISSIONER

22 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
23 Secretary of the Arizona Corporation Commission, have
24 hereunto set my hand and caused the official seal of the
25 Commission to be affixed at the Capitol, in the City of Phoenix,
26 this 11th day of January 2001.

27 
28 BRIAN C. McNEIL
EXECUTIVE SECRETARY

29 DISSENT _____
30 SG:dp

SERVICE LIST FOR:

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DOCKET NO.:

T-03929A-00-0695

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